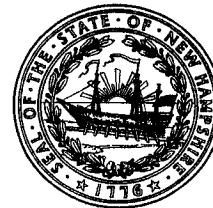




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

October 26, 2005

Willard Drew
15 Kimball Road
Gilford, NH 03249

Re: Docket No. AF 04-007 - Inns and Motels of the Lakes Region, Inc.

Dear Mr. Drew:

Enclosed for your records is a copy of the fully executed and accepted Motion to Accept Settlement Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY
Michael P. Sclafani,
Legal Assistant

cc: Harry T. Stewart, P.E., Director, Water Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Alan Leach, DES WD

Willard Drew
15 Kimball Road
Gilford, NH 03249

Re: The Grant Nightclub, f/k/a King's Grant Inn
Gilford, New Hampshire - EPA #0888210

ADMINISTRATIVE FINE
No. AF 04-007

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Water Division ("the Division") and Willard Drew, parties to the above-captioned matter, and stipulate to the following:

1. RSA 485 authorizes the Department of Environmental Services ("DES") to regulate public water supplies. RSA 485:3 authorizes DES to adopt drinking water rules which identify contaminants that may have an adverse effect on health, which establish maximum contaminant levels ("MCLs") that are acceptable in water for human consumption, which establish criteria and procedures to assure compliance with such MCLs, and which identify criteria and standards to ensure the proper operation and maintenance of water systems. Pursuant to this authority, DES has adopted NH Admin. Rule Env-Ws 300 *et seq.*
2. RSA 485:58, IV authorizes the Commissioner of DES to impose administrative fines of up to \$2,000 per offense for violations of RSA 485 or any rule adopted pursuant thereto, and to establish a schedule of fines for such violations. Pursuant to this authority, the Commissioner has adopted Env-C 602 to establish the schedule of fines for violations of RSA 485 and rules adopted pursuant thereto.
3. Inns & Motels of the Lakes Region, Inc., ("Inns & Motels") is the record owner of former The Grant Nightclub, f/k/a King's Grant Inn, water system which serves a motel consisting of six units and a restaurant, which seats an estimated population of 150, located in the community of Gilford, New Hampshire ("the Water System").
4. Inns & Motels was involuntarily dissolved in 1993. Willard Drew is an individual with a mailing address of 15 Kimball Road, Gilford, NH 03249. Willard Drew is the owner of the Water System. The Town of Gilford Tax Assessor's records continue to list Inns & Motels as the owner of the Water System.
5. The Water System is a transient, non-community water system as defined in RSA 485:1-a, X and Env-Ws 302.02 (ca).
6. On March 5, 2005, the Division issued Notice of Proposed Administrative Fine and Hearing No. AF 04-007 ("the Notice") to Inns & Motels and Willard Drew, seeking fines totaling \$4,900 for violations of NH RSA 485 and NH Administrative Rules Env-Ws 325, 326 & 351.

7. Specifically, the Notice cited Inns & Motels and Willard Drew for violating Env-Ws 325.05 by failing to submit a water sample for total coliform analysis in the system's scheduled sampling month of June 2002. Pursuant to Env-C 602.03(a) the Division sought a fine of \$100.

8. The Notice further cited Inns & Motels and Willard Drew for violating Env-Ws 325.05 by failing to submit a water sample for total coliform analysis in the system's scheduled sampling month of December 2002. Pursuant to Env-C 602.03(a) the Division sought a fine of \$100.

9. The Notice further cited Inns & Motels and Willard Drew for violating Env-Ws 325.05 by failing to submit a water sample for total coliform analysis in the system's scheduled sampling month of March 2003. Pursuant to Env-C 602.03(a) the Division sought a fine of \$200.

10. The Notice further cited Inns & Motels and Willard Drew for violating Env-Ws 325.05 by failing to submit a water sample for total coliform analysis in the system's scheduled sampling month of June 2003. Pursuant to Env-C 602.03(a) the Division sought a fine of \$200.

11. The Notice further cited Inns & Motels and Willard Drew for violating Env-Ws 325.05 by failing to submit a water sample for total coliform analysis in the system's scheduled sampling month of September 2003. Pursuant to Env-C 602.03(a) the Division sought a fine of \$200. The respondent has submitted proof that the business closed in September 2003 and the water system was not used by the public through June of 2004. Based on this information, the Division chooses not to seek this fine.

12. The Notice further cited Inns & Motels and Willard Drew for violating Env-Ws 351.01 by failing to submit to DES proof of public notice for the bacteria monitoring violation for June 2002 within the required 40-day period. Pursuant to Env-C 602.04(b)(5) the Division sought a fine of \$1,000.

13. The Notice further cited Inns & Motels and Willard Drew for violating Env-Ws 351.01 by failing to submit to DES proof of public notice of the bacteria monitoring violation for December 2002 within the required 40-day period. Pursuant to Env-C 602.04(b)(5) the Division sought a fine of \$1,000.

14. The Notice further cited Inns & Motels and Willard Drew for violating Env-Ws 351.01 by failing to submit to DES proof of public notice of the bacteria monitoring violation for March 2003 within the required 40-day period. Pursuant to Env-C 602.04(b)(5) the Division sought a fine of \$1,000.

15. The Notice further cited Inns & Motels and Willard Drew for violating Env-Ws 351.01 by failing to submit to DES proof of public notice of the bacteria monitoring violation for September 2003 within the required 40-day period. Pursuant to Env-C 602.04(b)(5) the Division sought a fine of \$1,000. The respondent has submitted proof that the business closed in September 2003 and the water system was not used by the public through June of 2004. Based on this information, the Division chooses not to seek this fine.

16. The Notice further cited Inns & Motels and Willard Drew for violating Env-Ws 326.30 and Env-Ws 321.09 by failing to submit a nitrate sample in the second quarter of 2002. The Division

did not seek a fine for this violation.

17. Finally, the Notice cited Inns & Motels and Willard Drew for violating Env-Ws 326.30 and Env-Ws 321.09 by failing to submit a nitrate sample in the second quarter of 2003. Pursuant to Env-C 602.03(b) the Division sought a fine of \$100.

18. In order to settle this matter, the Division and Willard Drew have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.

19. Of the remaining proposed total fines, in the amount of \$3,700, 25% or \$925 shall be suspended due to the small business nature of the Water System.

20. The suspended portion of the proposed fines, in the amount of \$925 are contingent upon Willard Drew complying with RSA 485 and Env-Ws 300 for a period of two years from the date of the execution of this Agreement. If Willard Drew fails to maintain compliance during the two-year period, the suspended portion of the fines, in the amount of \$925 shall become due and payable immediately. If Willard Drew maintains compliance for the prescribed two-year period on the Water System, the suspended portion of the fines shall be waived.

21. Willard Drew agrees to pay the remaining \$2,775 as follows: \$275 will be paid upon execution of this Agreement; \$500 is due within 30 days from the date of the agreement; the remaining four (4) payments of \$500 are due at 60, 90, 120, and 150 days from the date of the agreement, respectively.

22. Payment under Paragraph #21 and any payment that becomes due pursuant to Paragraph #20 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attn: Michael Sclafani
P.O. Box 95
Concord, NH 03302-0095

23. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

24. By executing this Agreement, Willard Drew waives his right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

25. The effective date of this Agreement will be the date on which it is signed by Willard Drew, the Director of the Water Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

26. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,

Date

October 14, 2005

COPY
Willard Drew, Water System Owner

DES Water Division

COPY
Harry T. Stewart, P.E., Director
Water Division

This Motion to Accept Settlement agreement is granted this 25th day of October 2005.

COPY
Michael P. Noon, Commissioner
Department of Environmental Services

cc: Michael J. Walls, Assistant Commissioner, DES
Jennifer J. Patterson, Sr. Asst. Attorney General, NHDOJ/EPB
Gretchen Hamel, Administrator, DES Legal Unit
Public Information Officer, DES PIP Office
Alan Leach, PWS, NHDES
David Andrade, Town of Gilford Health Office
Town of Gilford Board of Selectman
US EPA, Region 1